# 16B C.J.S. Constitutional Law § 1477

**Corpus Juris Secundum** | February 2021 Update

**Constitutional Law**
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**PART VI. Privileges and Immunities; Equal Protection**

**XVII. Subjects and Applications of Equal Protection Guarantee**

**H. Social Welfare Legislation**

## § 1477. Medical assistance

Topic Summary | References | Correlation Table

**West's Key Number Digest**

West's Key Number Digest, Constitutional Law 3548 to 3552

**Statutes relating to medical assistance, including Medicaid, are subject to equal protection requirements and are generally examined by the courts under the rational basis test.**

Medical assistance statutes of a state, including those relating to Medicaid, are subject to the strictures of equal protection,[1] and the rational basis test is the proper method of dealing with challenges to a medical assistance program.[2]

The denial of coverage under Medicaid of the services of chiropractors and physical therapists has been upheld.[3] Providers are also not denied equal protection by regulations adjusting reimbursement rates, given the wide latitude granted states by the federal statute to establish procedures for reimbursing health care providers.[4]

Durational residency requirements for medical assistance, such as for free nonemergency medical care, violate equal protection, applying the compelling interest test, when the right to travel is implicated.[5] However, a distinction was drawn in a case involving a shorter residency period, where care was not denied and the patient's

  

right to travel was not impaired, but the health care provider was denied payment on the basis of a statute imposing a residence requirement.[6]

Federal or state statutes that limit the use of public funding, including federal Medicaid funds, to therapeutic abortions do not violate equal protection.[7] The Equal Protection Clause does not require a state to pay Medicaid expenses for abortions for indigent women simply because it pays expenses for childbirth,[8] and a policy decision of a county or municipality not to provide publicly financed hospital services for nontherapeutic abortions, while providing them for childbirth, has been upheld.[9] However, a regulation denying Medicaid funding for medically necessary abortions, except for pregnant women at risk of dying or pregnant from rape or incest, failed an equal protection analysis under a state constitution where the State grants needed health care to some Medicaid-eligible residents but denies it to others, based on criteria entirely unrelated to the Medicaid program's purpose of granting uniform and high quality medical care to all needy persons in the state.[10] State legislation that categorically prohibits a department of health and human services from providing state or federal funds to a family planning organization and its affiliated organizations may be held as not being rationally related to the State's interest in favoring childbirth over abortion and thus violate the Equal Protection Clause.[11]

An act providing pharmaceutical assistance to the aged and disabled, but denying benefits to the disabled under age 65 who do not receive Social Security disability benefits, does not violate equal protection since this exclusion rationally furthered a legislature's goal of minimizing the program's costs while maximizing its benefits.[12]

The treatment of child support as available income for determining eligibility for medical assistance does not violate equal protection by differentiating between divorced Medicaid recipients and those who are married.[13]

**CUMULATIVE SUPPLEMENT**

**Cases:**

Statutory rate of reimbursement to private ambulance companies for providing emergency medical transportation for Medicaid patients that was lower than rate given to public providers of emergency medical transportation did not violate companies' equal protection rights; favoring public over private providers because payments to public providers counted toward State's share of Medicaid dollars, whereas payments to private providers did not, was reasonable justification. U.S. Const. Amend. 14; Cal. Welf. & Inst. Code §§ 14019.3(c), 14019.3(g), 14105.94, 14132(i); Cal. Code Regs. tit. 22, § 51527. Sierra Medical Services Alliance v. Kent, 883 F.3d 1216 (9th Cir. 2018).

**[END OF SUPPLEMENT]**



Footnotes

1 U.S.—Doe v. Colautti, 454 F. Supp. 621 (E.D. Pa. 1978), order aff'd, 592 F.2d 704 (3d Cir. 1979).

**Obligation under state constitution**

When state government seeks to act "for the common benefit, protection and security of the people" under a state constitution in providing medical care for the poor, it has an obligation to do so in a neutral manner so as not to infringe the constitutional rights of citizens.

W. Va.—Women's Health Center of West Virginia, Inc. v. Panepinto, 191 W. Va. 436, 446 S.E.2d 658 (1993).

2 Cal.—California Chiropractic Assn. v. Human Relations Agency, 91 Cal. App. 3d 141, 154 Cal. Rptr. 255, 8 A.L.R.4th 1043 (3d Dist. 1979).

**Reduction of pay for personal care attendants caring for relatives**

An amendment to a medical assistance statute drew an arbitrary distinction by reducing the pay of personal care attendants (PCAs) who were related to recipients to 80% of the pay of nonrelative PCAs, thereby failing the rational-basis test for an equal protection challenge under the state constitution; the distinction was based purely on assumptions, rather than evidence, that relative PCAs would continue to provide care out of a moral obligation even if their pay was cut and that nonrelative caregivers did not have the same moral obligation and incentive to continue providing care.

Minn.—Healthstar Home Health, Inc. v. Jesson, 827 N.W.2d 444 (Minn. Ct. App. 2012).

3 N.M.—Katz v. New Mexico Dept. of Human Services, Income Support Division, 1981-NMSC-012, 95 N.M. 530, 624 P.2d 39 (1981).

4 Ohio—Ohio Academy of Nursing Homes, Inc. v. Barry, 56 Ohio St. 3d 120, 564 N.E.2d 686 (1990).

S.C.—Anco, Inc. v. State Health and Human Services Finance Com'n, 300 S.C. 432, 388 S.E.2d 780 (1989).

5 U.S.—Memorial Hospital v. Maricopa County, 415 U.S. 250, 94 S. Ct. 1076, 39 L. Ed. 2d 306 (1974).

**A.L.R. Library**

Validity, Construction, and Application of State Statutes Limiting or Barring Public Health Care to Indigent Aliens, 113 A.L.R.5th 95.

6 Idaho—In re Bermudes, 141 Idaho 157, 106 P.3d 1123 (2005).

7 U.S.—Williams v. Zbaraz, 448 U.S. 358, 100 S. Ct. 2694, 65 L. Ed. 2d 831 (1980); Harris v. McRae, 448 U.S. 297, 100 S. Ct. 2671, 65 L. Ed. 2d 784 (1980).

**Result of rape or incest, or endangers woman**

Prohibition on funding for abortions unless pregnancy results from rape or incest, or places woman in danger of death, does not violate the equal protection clause of a state constitution since restrictions are rationally related to a legislative purpose of providing indigent health care only to an extent that federal matching funds are available.

Tex.—Bell v. Low Income Women of Texas, 95 S.W.3d 253 (Tex. 2002).

**Necessary to save mother's life**

Mich.—Doe v. Department of Social Services, 439 Mich. 650, 487 N.W.2d 166 (1992).

Pa.—Fischer v. Department of Public Welfare, 509 Pa. 293, 502 A.2d 114 (1985).

**A.L.R. Library**

Validity Of State Statutes And Regulations Limiting or Restricting Public Funding for Abortions Sought By Indigent Women, 118 A.L.R.5th 463.

Validity of Restrictions on Abortion Funding Under Military Health Care Programs, 38 A.L.R. Fed. 2d 1.

8 U.S.—Maher v. Roe, 432 U.S. 464, 97 S. Ct. 2376, 53 L. Ed. 2d 484 (1977).

Mich.—Doe v. Department of Social Services, 439 Mich. 650, 487 N.W.2d 166 (1992).

N.C.—Rosie J. v. North Carolina Dept. of Human Resources, 347 N.C. 247, 491 S.E.2d 535 (1997).

9 U.S.—Poelker v. Doe, 432 U.S. 519, 97 S. Ct. 2391, 53 L. Ed. 2d 528 (1977).

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10 Alaska—State, Dept. of Health & Social Services v. Planned Parenthood of Alaska, Inc., 28 P.3d 904 (Alaska 2001).

11 U.S.—Planned Parenthood of Cent. North Carolina v. Cansler, 877 F. Supp. 2d 310 (M.D. N.C. 2012).

12 N.J.—Barone v. Department of Human Services, Div. of Medical Assistance and Health Services, 107 N.J. 355, 526 A.2d 1055 (1987).

  

13 Mass.—Tarin v. Commissioner of the Div. of Medical Assistance, 424 Mass. 743, 678 N.E.2d 146 (1997).

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